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SPECIAL MEETING, APRIL, 1874.

A Social Meeting of the Society was held at the house of the President, 90 Marlboro' Street, on the evening of the 16th April.

The President took the chair at a little after 8 o'clock, and entered upon the duties of the evening by presenting to the Society a copy of Vol. I. of the "Codex Diplomaticus Cavensis," to which he and others in this country had subscribed at the suggestion of Count Circourt of Paris. He also gave a copy of a recent pamphlet issued by the Peabody Educational Fund.

He then read a letter addressed to himself by the late Professor Agassiz, introducing it as follows:—

I have thought, Gentlemen, that I might occupy a few moments this evening, not altogether inappropriately, by presenting to the Society, with a few words of explanation, a letter from the late Professor Agassiz, on a subject of public interest, addressed to me nearly nine years ago, under somewhat peculiar circumstances.

It happened that Mr. George Peabody, on his arrival in this country, in the summer of 1866, did me the honor to take me into his confidence and counsel, in regard to the great benefactions which he was proposing for his native land. He came out to my residence at Brookline, and spent two or three days with me in consultation. On one of these days I sent for Professor Agassiz to meet him at dinner. Agassiz accepted the invitation and came. But, before coming, he addressed this letter to me, understanding that Mr. Peabody might possibly be influenced, in some degree, by my advice.

In this letter, without asking any thing for himself, or for the particular work in which he was engaged, he unfolded, in the most unselfish way, his own views as to one of the great needs for the successful prosecution of scientific, and indeed of philosophical and literary, studies in our country.

The letter is too interesting and too important to be lost or left unpublished; and as Mr. Peabody, not long afterwards, became one of our greatest benefactors, and was placed on our Honorary Roll, and as he made the President of our Society (*ex officio*) one of the Trustees and Guardians of his Museum of Archæology and Ethnology at Cambridge, it has seemed to me not unfit that this letter of Agassiz should find a place in our archives, and be printed in our Proceedings.

The letter is as follows:—

NAHANT, Oct. 1, 1866.

DEAR SIR, — I accept with great pleasure your invitation for next Wednesday at 5 o'clock, and shall be most happy to see you and Mrs. Winthrop at home. You say it is to meet Mr. G. Peabody, of London, and this induces me to write a few lines more. I have met Mr. P. before, but never made an allusion to his liberality that could look like begging, as I hate to bore rich men in that way; but I am told Mr. P. intends to benefit our public institutions, and that he has consulted with you upon this subject. Permit me, therefore, to lay before you a few thoughts which have lately occupied my mind, and indeed excited me much; and, if you see fit, communicate this letter to him.

The great boast of Monarchies is that they patronize letters, arts, and science as Republics never did and never can. Is there no way to remedy this difficulty? Can republics, and ours in particular, not be made to do as much, if not more, in that direction, than ever was done anywhere and at any time? And can it not be done in a truly republican spirit, relieving those that are benefited from the feeling of dependence, without depriving the patrons of any credit due to them? This is the theme which I have been discussing and which I think susceptible of solution. The man or men who carry out an efficient plan to solve this difficulty will have done more for the United States than the founders of some empires did for humanity.

To show the full extent of the difficulty, I will suppose a case. How could a work like Lepsius' Egypt be published in this country? The government would and should not undertake it, in accordance with the spirit of our institutions. No bookseller could do it without ruining himself. There remains the resort to a subscription by which rich men are expected to give money for what they do not care. This is an objectionable method, and one which may at any time be stopped after it has been carried too far. We want permanent arrangements to supply at all times the means for carrying out any great artistic, literary, or scientific undertaking, without boring anybody.

It might be thought that an immense fund — millions of dollars — would be insufficient to establish a machinery that would do such work. I think not. I am even satisfied that one single organization which would assume such responsibilities would fail, even if it had money enough; as it would of necessity be under the supervision and guidance of a few men, who would foster what *they* like and leave what they do not like to take care of itself. It would, moreover, be local in its character and influence. I want something that shall work with equal intensity North and South, East and West; and that should go into operation at the rate of the advancing civilization of the whole country.

Suppose, now, we had all over the States two or three thousand associations akin in organization to those which the instincts of the people are so quick in establishing when politics are concerned, but intended to foster letters, arts, and science. Suppose that each of these associations could spend fifty or a hundred dollars a year for

these noble purposes, there is not a literary, or artistic, or scientific undertaking of any magnitude that need be given up from want of means, if these associations would co-operate, and in their disagreements they would support what single men or single institutions would allow to perish. The question is simply how to organize such associations and give them vitality. Time and proper stimulants may do it. And now I come to my special point. If what I propose is not a panacea, which I do not believe it to be, any more than any other Utopian plan, I am sure it would be a potent stimulus in the right direction.

Our people are greedy for knowledge; and if science does not make more rapid progress in this country, it is simply owing to the fact that knowledge is extensively circulated only *in its cheap, elementary forms*. Our academies, and even the Smithsonian Institution, publish only a few hundred copies of their transactions; the Smithsonian, about one thousand, most of which are distributed ABROAD. Great scientific works are never seen in our schools, hardly in our public libraries; and where they are on hand, it is difficult to secure access to them. I want to see such publications reach the whole population. And, as I understand scientific matters better than literary or artistic ones, I will limit my remarks to what I consider practicable for science in that direction. A series of handsomely illustrated original works on Natural History, *printed in large editions*, and distributed gratuitously to every association that would itself undertake to spend annually a small sum of money for the purchase of other costly books, would go far towards stimulating the organization of associations like those to which I have alluded above. But, even considered in itself, the plan of publishing a large series of costly original works, to be distributed gratuitously, is worth considering as a national benefit. In the first place, I know of the existence of numerous such works, which neither the Smithsonian Institution, nor any other learned society, have the means of publishing, and therefore remain in the authors' desks, as no bookseller will touch such works. The country and the world are the losers for this. I know that the authors of such investigations would gladly give them away, if they only could be published. I am certain that such works could be published in a manner to serve as models for other original researches, and to stimulate such researches where the methods of scientific investigations are not even dreamed of. Such publications could not fail to raise the character of the studies in every other department throughout the country. There are only two difficulties in the way of giving publicity to such intellectual labors: 1. There is no learned society so organized as to undertake the superintendence of such publications; 2. There are no means to carry out the publications, if anybody would undertake to superintend the work.

It is to this I would request you to call Mr. Peabody's attention. You need not mention my name in connection with the subject, unless he should wish to inquire in what manner the first of the above-named difficulties, that of superintending such publications, might be obviated, as I believe I could suggest a practicable plan; and there would be no

use in broaching the subject unless some gentleman looked with sufficient favor upon such a plan as to furnish the means of carrying it out.

Hoping you may have the patience to read through this long epistle,
I remain,

With high regard,

Yours very truly,

Hon. ROBERT C. WINTHROP.

L^s. AGASSIZ.

P.S. — Perhaps a few hints as to how and where may be of practical use. Suppose Mr. Peabody should feel inclined to give the necessary money to carry out such a plan, I would propose that all the works or papers so publishing should appear in the form of quarto volumes or parts of volumes, with numerous, most finished, and, if necessary, colored plates, of uniform size, under the title of "*Peabody's Contributions to the Natural Sciences*:" An edition of 2500 or more copies to be printed, and the successive volumes to be distributed gratuitously: First, to the first 2000 associations which would furnish the evidence that they spend a certain sum annually in the purchase of serious books, and are prepared to spend another smaller sum in the support of the publication of costly works, which could not be published by the ordinary means of the book trade: Second, 500 copies to be reserved for future use, or to be in part given to the authors for private circulation, or as a compensation to the institution or men who would superintend the publication and distribution of the volumes as they can be brought out. With sufficient means, I am certain that *one large quarto volume* could easily be published *annually*, of such high value as to be not only an equivalent for the co-operation of scientific associations in this great work, but even to stimulate the organization of other similar associations where none exist thus far, gradually calling into existence a sufficient number of such associations as would relieve science from all necessity of future government or individual patronage.

As soon as the Museum of Comparative Zoölogy at Cambridge is fully organized, according to the plans which I have laid before the Faculty, that Institution could easily undertake the superintendence and publication of such a series of Works and Papers without any expense to the founder of the future "*Contributions to the Natural Sciences*." It should be amply compensated for its co-operation by appearing upon the title as "published under the supervision of the Museum of Comp. Z. in Cambridge;" nobody's name there except that of the founder of the contributions.

The President continued: —

The great idea of this letter, as you will have perceived, is the importance and necessity, for Science, Literature, and the Arts, and we may well add for History also, of *Publication Funds*, through which Works which have no element of popularity in them, and which could not command a publisher or a remunerating sale, may not be allowed to perish in the manuscript, or be suffered to die unwritten in the brains of discour-

aged students, but may be printed and circulated for the benefit of mankind.

I did not fail to communicate the letter to Mr. Peabody, and, possibly, we may have in some degree owed to its suggestions the Publication Fund of \$20,000, with which he not long afterwards endowed our own Society. But his plans were already too nearly matured for him to adopt the idea of Agassiz in its full comprehensive scope. That idea, however, I have always considered as of great interest and value; and I cannot help hoping that the very Memorial Fund, for which his lamented death has given occasion, may be so far extended as to include what was so near his own heart, as a Publication Fund for the purposes of his great Museum, if not of Science in general.

Meantime, I present the original letter as a precious autograph for our Collections. He once reclaimed it for the purpose of making a copy for his own keeping, thus showing the importance he attached to it; but he soon returned the original, and left it at my disposal.

I cannot part from the subject of Agassiz, Gentlemen, without giving you an anecdote which has been recalled to my mind during my preparations for another ocean voyage. In 1859, I was a fellow passenger of his across the Atlantic, and, of course, I enjoyed not a little of his charming society and conversation. We sailed from Boston on the 15th of June, and for several days we were enveloped in a dense fog. On the sixth day out, June 20th, the fog continued till nearly 7 o'clock in the evening, when it suddenly vanished, and we had the full glory of a setting sun at sea. Meanwhile, however, the lifting mist had unveiled two enormous Icebergs, one on our larboard and the other on our starboard, ten or twelve miles distant from the ship, — near enough to be exquisitely beautiful, but, happily, not near enough to be immediately dangerous. Yet we might easily have run on one of them, had not the cloudy curtain been seasonably withdrawn, as it was, by an unseen Hand. Agassiz had never before encountered an Iceberg, and I shall not soon forget his exclamations of delight. "O Captain," he cried out, "if I could only have a boat to go and examine one of those icy masses! I could find out all about it, and tell you exactly where it came from." "But one of these days," he added, "I will go out in a Coast Survey steamer, and make a special examination of an Iceberg for myself." We passed safely through the crystal gateway, leaving both its columns astern, before bed-time; but hardly had I reached my state-room when Agassiz was calling out to me to come up again and see the wonderful phosphorescence of our

wake. We were passing through a field of Medusæ, and they seemed to have put on an unwonted sparkle and splendor, as their great observer and investigator stood watching them over the taffrail.

It was during this voyage, too, that, knowing I was about to spend a few weeks in Switzerland, he was eager to tell me exactly how to get a first view of the Alps to the best advantage. "Enter Switzerland," said he, "by Dijon, Besançon, and Pontarlier, taking a private carriage through the pass of the Jura to a height called La Tourne, and so by Val Travers to Neufchâtel." "The view which bursts upon you at La Tourne," said he, "is the finest view in all Switzerland."

And here is a little map of the route, which he made with his own pencil at the moment, — for fear I should forget his instructions.

But there was one other brief conversation of his, which was worth all the rest. Humboldt had recently died, and I had called his attention to the fact, that some European Naturalist, whose name I will not attempt to recall, had said of Humboldt, by way of distinction and eulogy, that he had fairly ruled God out of the universe. "Yes," said Agassiz, with all his characteristic energy and emphasis, "and I have just written to a friend, to tell that man that he has uttered an infamous slander on Humboldt."

Humboldt, you may all remember, was one of our early Honorary Members, elected when our Society embraced Natural, as well as Civil, History in its designs. Had we not abandoned that field of research to other Associations more expressly adapted for its culture, I need not say how proudly we should have included Agassiz on our roll. And I am sure that it will give us all pleasure to have found an occasion, this evening, for remembering, as a Society, one whom so many of us will never forget as the most charming and cherished of friends, whom Massachusetts and our whole country will ever count among the grandest and noblest of our adopted sons, and whom Science throughout the world has long ago enrolled among its most illustrious votaries.

I turn now, Gentlemen, without further delay, to what I am sure will prove the most interesting and gratifying feature of this occasion.

Having heard, for a year or two past, from no unauthentic source, that a well-known confidential and devoted friend of a former illustrious member of our Society, Mr. Webster, was proposing, and had indeed decided, to commit to our safe-keep-

ing, as a gift to our Cabinet, some very precious commemorative Medals, which originally were awarded to Washington, and were in his possession until his death, and which many years afterwards became the property of Mr. Webster, I was desirous that so signal and acceptable a gift should be made under circumstances in some degree appropriate to its interest and value, and in a presence not unworthy of the great names with which it must ever be associated.

In this view, I have invited the generous donor not only to take a place among our welcome guests this evening, but to bring his treasures with him and to make the presentation personally, and thus to afford us the satisfaction of receiving the Medals from his own hand.

Without further preamble, I will call on the Hon. Peter Harvey.

Mr. HARVEY then said :—

MR. PRESIDENT, — The history of the Washington Medals, so far as it is known to me, was all derived from Mr. Webster, in whose possession they were for more than a quarter of a century. This account is substantially that in the year 1824 or 1825, while at his breakfast table, reading the morning papers, in the city of Washington, his eye accidentally fell upon the advertisement of a pawn-broker, offering the medals for sale. He hastened to the office of the broker, and, satisfying himself as to their genuineness, paid the price demanded. He immediately addressed a letter to Judge Bushrod Washington, the nearest living representative of General Washington, and the administrator of his estate, then residing at Mount Vernon, stating the circumstances and way in which he became possessed of the medals, and offering to restore them to his family. In his reply, Judge Washington gave a brief history of the medals, stating that he, as administrator, disposed of them and similar articles by auction among the heirs-at-law of General Washington, no others being allowed to enter into competition with them for the purchase. The medals were bought by a Mr. Lewis, — Lawrence Lewis, I think, was his name ; and from him they descended to his son, who held a minor office in the Treasury Department, quite inadequate to the support of his family. He at first pawned, and afterward authorized the broker to sell them. Judge Washington concluded his letter by thanking Mr. Webster for his kind offer, saying, ‘ I am childless and not rich ; in a few years, at the longest, the same process will have to be gone over again ; and, as the medals are now in good hands, I pray you to keep them.’

Mr. Webster placed a very high value on these memorials, as having been struck in Paris under the superintendence of General Lafayette, as a gift to Washington; and, it is believed, by order of the French Government,—thus associating them with three of the most distinguished personages in our history, Washington, Lafayette, and Webster.

The simple statement of the fact that less than three quarters of a century from the time they were presented to the illustrious Father of his Country finds them in my possession is quite sufficient to show that such memorials and historic treasures should not be left to the changes and chances of individual ownership. Entertaining these views, I beg to place them in the custody of the Massachusetts Historical Society, over which you, sir, preside with so much dignity and usefulness.

After remarks by Mr. ADAMS and Mr. SALTONSTALL, expressive of their high sense of the value of this generous gift to the Cabinet of the Society, the following resolutions were offered and unanimously adopted:—

Resolved, That the best thanks of this Society are hereby returned to the Hon. Peter Harvey for his most acceptable and splendid gift to our Cabinet of “the Washington Medals,” originally belonging to the Father of his Country, and more recently the cherished property of Daniel Webster.

Resolved, That the Cabinet-keeper be instructed to procure a silver plate to be inserted in the cover of the case containing these medals, on which shall be engraved a concise account of their origin, and the names of the several eminent persons through whose hands they have passed before reaching the Cabinet of the Historical Society.

The following description of the medals has been prepared by our associate, Mr. W. S. APPLETON:—

Description of the Washington Medals.

I. GEORGIO WASHINGTON SUPREMO DVCI EXERCITVVM ADSERTORI LIBERTATIS COMITIA AMERICANA; head of Washington facing the right; below DU VIVIER PARIS. F. REV. HOSTIBUS PRIMO FUGATIS; in exergue BOSTONIUM RECUPERATUM XVII. MARTII MDCCLXXVI.; at the left, Washington with four officers, all on horseback; at the right, a fort, and near it two cannon,—on one DUVIV.,—and cannonballs lying on the ground; in the middle distance, soldiers under arms; beyond is a view of Boston lying near the water, on which are several vessels just sailing away. Size 43.

In Congress, 25 March, 1776, sundry letters were read: "One from General Washington of the 19th, wherein he informs Congress, that on the 17th the enemy evacuated Boston, and our troops took possession of it: *Resolved*, That the thanks of this Congress, in their own name, and in the name of the thirteen United Colonies, whom they represent, be presented to his Excellency General Washington, and the officers and soldiers under his command, for their wise and spirited conduct in the siege and acquisition of Boston; and that a medal of gold be struck in commemoration of this great event, and presented to his Excellency; and that a committee of three be appointed to prepare a letter of thanks, and a proper device for the medal. The members chosen, Mr. J. Adams, Mr. Jay, and Mr. Hopkins." The dies are still in the French mint.

II. HORATIO GATES DUCI STRENUO; in exergue COMITIA AMERICANA; bust of Gates facing the left; to the right below N. GATTEAUX. Rev. SALUS REGIONUM SEPTENTRIONAL.; in exergue HOSTE AD SARATOGAM IN DEDITION. ACCEPTO DIE XVII. OCT. MDCCLXXVII.; at the right Gen. Gates, to whom Gen. Burgoyne is giving his sword; behind Gates are soldiers under arms, and near them an olive-tree; behind Burgoyne are soldiers laying down their arms; on the ground a drum, flag, mortar and cannon-balls; in the distance hills; below to the left GATTEAUX F. Size 35.

In Congress, 4 November, 1777, "*Resolved*, That the thanks of Congress, in their own name, and in behalf of the inhabitants of the thirteen United States, be presented to Major-general Gates, commander-in-chief in the northern department, . . . and that a medal of gold be struck under the direction of the board of war, in commemoration of this great event, and in the name of these United States presented by the President to Major-general Gates."

III. ANTONIO WAYNE DUCI EXERCITUS; in exergue COMITIA AMERICANA; at the left an Indian Queen, who holds a mural crown in her left hand, and with her right presents a laurel-crown to Gen. Wayne; at her feet are an alligator, a rope, and the shield of the United States; below the general GATTEAUX. Rev. STONEY-POINT EXPUGNATUM; in exergue XV JUL. MDCCLXXIX.; a view of the assault including both sides of the river, the fort in the distance; below at the left GATTEAUX. Size 34.

IV. JOANNI STEWART COHORTIS PRÆFECTO; in exergue COMITIA AMERICANA; at the right an Indian Queen, who presents a palm-branch to Major Stewart; her left hand rests on and supports the shield of the United States, and at her feet are an alligator and a rope; below the major GATTEAUX. Rev. STONEY-POINT OPPUGNATUM; in exergue XV JUL. MDCCLXXIX.; a view of the assault, a charge in the foreground; below at the left GATTEAUX. Size 29.

V. VIRTUTIS ET AUDACIÆ MONUM. ET PRÆMIUM; in exergue D. DE FLEURY EQUITI GALLO PRIMO SUPER MUROS RESP. AMERIC. D. D.; a man in ancient armor standing in the ruins of a fort, with a short sword in right hand, and in left a flag, on which he places his right foot; on a stone of the fort DU VIVIER S. Rev. AGGERES PALU-

DES HOSTES VICTI; in exergue STONY-PT. EXPUGN. XV. JUL. MDCCLXXIX.; a bird's-eye view of the fort; beyond is the river with six vessels. Size 29.

In Congress, 26 July, 1779, letters were read announcing the capture of Stony Point, and it was "*Resolved, unanimously*, That a medal, emblematical of this action, be struck: That one of gold be presented to Brigadier-general Wayne, and a silver one to Lieutenant-colonel Fleury and Major Stewart respectively."

The next day Congress also "*Resolved*, That the board of treasury cause the medals, in honor of the commander-in-chief and other officers of the United States, to be struck without delay, agreeably to the several resolutions of Congress on this subject."

VI. DANIELI MORGAN DUCI EXERCITUS; in exergue COMITIA AMERICANA; *dupre f.*; at the left an Indian Queen, who places a laurel-crown on the head of General Morgan, who bends to receive it, resting his right hand on his sword; behind them the shield of the United States, an olive-branch, cannons, a drum, trumpet, flags, &c., and at the right an open landscape. Rev. VICTORIA LIBERTATIS VINDEX.; in exergue FVGATIS CAPTIS AVT CAESIS AD COWPENS HOSTIBVS XVII. JAN. MDCCLXXXI.; DUPRE INV. ET F.; a view of the battle, with General Morgan leading on a body of infantry, before whom the English are fleeing. Size 36.

VII. GULIELMO WASHINGTON LEGIONIS EQUIT. PRÆFECTO; in exergue COMITIA AMERICAN.; a view of the battle of the Cowpens, with Colonel Washington leading a charge of cavalry after the enemy; in the air above a flying figure of Victory, with laurel-crown and palm-branch; at right below the horse DUV. Rev. QUOD PARVA MILITUM MANU STRENUUS PROSECUTUS HOSTES VIRTUTIS INGENITÆ PRÆCLARUM SPECIMEN DEDIT IN PUGNA AD COWPENS. XVII. JAN. MDCCLXXXI., in seven lines within a wreath of laurel, tied by a bow at top and bottom. Size 29. The dies are in the French mint.

VIII. JOH. EGAR. HOWARD LEGIONIS PEDITUM PRÆFECTO; in exergue COMITIA AMERICANA; Colonel Howard on horseback, before him a color-bearer running, and beyond them a flying figure of Victory, with laurel-crown and palm-branch; below at left DU VIV. Rev. QUOD IN NUTANTEM HOSTIUM ACIEM SUBITO IRRUENS PRÆCLARUM BELLICÆ VIRTUTIS SPECIMEN DEDIT IN PUGNA AD COWPENS XVII. JAN. MDCCLXXXI., in seven lines within a wreath of laurel tied by a bow at top and bottom. Size 29. The dies are in the French mint.

In Congress, 9 March, 1781, *Resolved*, "That a medal of gold be presented to Brigadier-general Morgan, and a medal of silver to Lieutenant-colonel Washington, of the cavalry, and one of silver to Lieutenant-colonel Howard, of the infantry of the United States; severally with emblems and mottoes descriptive of the conduct of those officers respectively on that memorable day," viz. of the Cowpens.

IX. NATHANIELI GREEN EGREGIO DUCI COMITIA AMERICANA; bust of Green in uniform facing the left. Rev. SALUS REGIONUM AUSTRALIUM.; in exergue HOSTIBUS AD EUTAW DEBELLATIS DIE VIII SEPT. MDCCLXXXI.; Victory with laurel-crown and palm-branch

resting on her left foot on a broken shield, near which are another shield, flags, a broken sword, helmet, laurel-branch, &c.; to left DUPRE. Size 35.

In Congress, 29 October, 1781, "*Resolved*, That a British standard be presented to Major-general Greene, as an honorable testimony of his merit, and a golden medal emblematical of the battle and victory aforesaid," viz. of Eutaw Springs.

X. LIBERTAS AMERICANA; in exergue 4 JUL. 1776; a beautiful head of Liberty facing the left, with hair loosely streaming backwards; over the right shoulder a pole, on which is a Phrygian cap; on edge of bust DUPRE. REV. NON SINE DIIS ANIMOSUS INFANS; in exergue ¹⁷19 OCT. ¹⁷⁷⁷1781; the infant Hercules in his cradle, strangling two serpents, while Pallas protects him, with a spear in her right hand, and in her left a shield charged with the lilies of France, against which a leopard is throwing himself; to right DUPRE. F. Size 30. This medal was struck in Paris under the direction of Franklin. See Proceedings for 1869-70, p. 301.

XI. BENJ. FRANKLIN NATUS BOSTON. XVII. JAN. MDCCVI.; bust of Franklin facing the left; on edge of bust DUPRE. F. REV. ERIPUIT CÆLO FULMEN SCEPTRUM QUE TYRANNIS, in four lines within a wreath of oak; below SCULPSIT ET DICAVIT AUG. DUPRE ANNO MDCCLXXXVI. Size 29. The dies are in the French mint.

These medals were engraved by Dupré, Du Vivier, and Gatteaux, three famous French medallic artists of the time. Some statements concerning them are made in a small pamphlet on the "National Medals of America," published in 1854 for Thomas Wyatt. Unfortunately his reputation for accuracy is not so good as could be wished. He says that the medals "for General Wayne, Colonel de Fleury, and Major Stewart, were executed under the direction of Dr. Franklin, and those presented to Generals Washington, Gates, Greene, Morgan, Howard, and William Washington, were executed under the direction of Thomas Jefferson." I do not find the evidence of this, but have no reason to doubt the truth of the following statement by him, that, "At the time the gold medals were struck, the French Government presented a series in silver to General Washington, which medals, after the decease of the General, were offered for sale, and purchased by the late Hon. Daniel Webster, who kindly loaned them to the Publisher."

Chief Justice GRAY submitted for the inspection of the members of the Society Chief Justice Cushing's original note-book of the trials before the Supreme Judicial Court of Massachusetts at the terms held in the County of Worcester in 1783, (which had been intrusted to him for the purpose by Mr. William Cushing Paine, the namesake and great grand-nephew of Chief Justice Cushing), and read therefrom the minutes of the trial at April Term 1783 of the case of *The Commonwealth v. Nathaniel Jennison*, in which it was established that

slavery was wholly abolished in this Commonwealth by the Declaration of Rights prefixed to the Constitution of 1780.

These minutes, now printed for the first time, and copied *verbatim* from the note-book of the Chief Justice, altering nothing but the abbreviations and errors in spelling incident to memoranda of this kind, and adding in brackets what is necessary to render them easily understood, are as follows:—

“INDICTMENT, found September, 1781, *vs.* NATHANIEL JENNISON of Barre, for an assault on Quack Walker, and beat with a stick 1st May, 1781, and imprisoned two hours.

[*Opening of the Attorney-General.*]

“Born in Caldwell’s house, who engaged he should have his freedom at 25—his widow, who married defendant, promised the same when he was 28—dismissed—and defendant attempted [to retake him?]

[*Testimony for the Government.*]

“*Mr. Caldwell.* The negro came to my house about a week before the warrant. He was at work in my field with a team working—heard a screaming—got upon a knoll 5 or 6 rods from Jennison and several others, who had got the negro down, young fellow upon the negro, I took him off—bruised his fingers—carried him off—went to a saw-mill—and told Jennison his master had freed him—and Winslow let him go—wounds in his hands and arms. My brother said always he should be free at 25—Mrs. Caldwell [that he should be free at 21?]

“*Quack.* I was harrowing. 10 years old when master Caldwell died. Mrs. lived a number of years before she married again. I lived with Dr. Jennison 7 years and $\frac{1}{2}$ after I was 21. My old master said I should be free at 24 or 25. Mistress told me I should be free at 21—said so to Jennison, before and after marriage.

“*Defence.*

“From Zachariah Stone to Caldwell, deceased—Bill of Sale of Mingo and Dinah, 1754, and Quaco, 9 months old.

“*Charles Baker.* I was divider of Caldwell’s estate. (About 20 years ago he died.) 2 or 3 years after, the widow received Quaco as part of her dividend.

“*Mr. Jones.* Quaco lived with Caldwell till he died—appraised at £40—set off to his Mrs. as part of her personal estate. She married Jennison about 1770, and died about 3 years after.

“*Joshua Winslow.* I was desired by defendant to help him reclaim Quaco.

[*Charge of the Chief Justice.*]

" Fact proved.

"Justification that Quack is a slave — and to prove it 'tis said that Quack, when a child about 9 months old, with his father and mother was sold by bill of sale in 1754, about 29 years ago, to Mr. Caldwell, now deceased; that, when he died, Quack was appraised as part of the personal estate, and set off to the widow in her share of the personal estate; that Mr. Jennison, marrying her, was entitled to Quack as his property; and therefore that he had a right to bring him home when he ran away; and that the defendant only took proper measures for that purpose. And the defendant's counsel also rely on some former laws of the Province, which give countenance to slavery.

"To this it is answered that, if he ever was a slave, he was liberated both by his master Caldwell, and by the widow after his death, the first of whom promised and engaged he should be free at 25, the other at 21.

"As to the doctrine of slavery and the right of Christians to hold Africans in perpetual servitude, and sell and treat them as we do our horses and cattle, that (it is true) has been heretofore countenanced by the Province Laws formerly, but nowhere is it expressly enacted or established. It has been a usage — a usage which took its origin from the practice of some of the European nations, and the regulations of British government respecting the then Colonies, for the benefit of trade and wealth. But whatever sentiments have formerly prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of America, more favorable to the natural rights of mankind, and to that natural, innate desire of Liberty, with which Heaven (without regard to color, complexion, or shape of noses) features) has inspired all the human race. And upon this ground our Constitution of Government, by which the people of this Commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal — and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property — and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract.

" Verdict guilty."

NOTE BY CHIEF JUSTICE GRAY.

The original indictment in this case is preserved, with such other records and papers of the Superior Court of Judicature and the Supreme Judicial Court before August 1797, as have come down to us, in the clerk's office in Boston, and is as follows: —

" Worcester, ss. At the Supreme Judicial Court begun and holden at Worcester within and for the County of Worcester on the third Tuesday of September in the year of our Lord one thousand and seven hundred and eighty-one.

"The Jurors for the Commonwealth of Massachusetts upon their oath present that Nathaniel Jennison, of Barre in the County of Worcester aforesaid, yeoman, on the first day of May last past at Barre in the said County of Worcester in and upon one Qock Walker, then and there in the peace of GOD and of this Commonwealth being, with force and arms an assault did make, and then and there, with force as aforesaid, with his the said Nathaniel's fist and a large stick which the said Nathaniel then and there held in his hand, the said Qock did beat, bruise, and evilly entreat, and him the said Qock, with force as aforesaid, without warrant, just cause, or lawful authority, did imprison during the space of two hours, in evil example to others to offend in like case, to the damage of the said Qock, against the peace of the Commonwealth aforesaid and dignity of the same. A true bill.

"OLIVER WHITNEY, *Foreman.*"

"R. T. PAINE, *Att'y pr Repub.*"

The record of April Term 1783 sets forth the indictment in full, and proceeds as follows:— "This indictment was found September Term A.D. 1781. And now in this present term the said Nathaniel Jennison comes into court and has this indictment read to him, he says that thereof he is not guilty and thereof for tryal puts &c. A jury thereupon is impanelled and sworn to try the issue, viz: Jonas How, foreman, and fellows, viz: William McFarland, Isaac Choate, Joseph Bigelow, John White, Daniel Bullard, Ebenezer Lovell, Phillip Goodridge, John Lyon, Johnathan Woodbury, Thomas White and John Town, who after hearing all matters and things concerning the same return their verdict and upon their oath do say that the said Nathaniel Jennison is guilty. It is therefore considered by the Court that the said Nathaniel Jennison pay a fine to the Commonwealth of Forty Shillings, pay cost of prosecution, and stand committed till sentence be performed.— Cost taxed at £ ."

This term appears by the record to have been held by the whole court, consisting of William Cushing, Chief Justice, and Nathaniel Peaslee Sargeant, David Sewall, and Increase Sumner, Justices.

William Cushing was born in 1732, graduated at Harvard College in 1751, and was appointed in 1772 a Justice of the Superior Court of Judicature. Upon the breaking out of the Revolution, and the removal by the General Court of all officers holding commissions under the King, the Council, exercising the executive power, in 1775 appointed him a Justice, and in 1777 (John Adams having declined the office) Chief Justice of the Superior Court of Judicature. After the adoption of the Constitution of the Commonwealth in 1780, he was recommissioned by Governor Hancock as Chief Justice of the Supreme Judicial Court. In 1788 he was Vice-President of the Convention of the Commonwealth of Massachusetts which ratified the Constitution of the United States. After the adoption of that Constitution, he was appointed by President Washington the first Associate Justice of the Supreme Court of the United States, and in 1796 Chief Justice, but declined that office, and continued to be an Associate Justice until his death in 1810.

Nathaniel Peaslee Sargeant was born in 1731, graduated at Harvard College in 1750, was appointed in 1775 a Justice of the Superior Court of Judicature, recommissioned in 1781 as a Justice of the Supreme Judicial Court, appointed Chief Justice in 1789, and died in 1791.

David Sewall was born in 1735, graduated at Harvard College in 1755, was appointed in 1777 a Justice of the Superior Court of Judicature, recommissioned in 1781 as a Justice of the Supreme Judicial Court, appointed in 1789 the first District Judge of the United States for the District of Maine, and died in 1825.

Increase Sumner was born in 1746, graduated at Harvard College in 1767, was appointed a Justice of the Supreme Judicial Court in 1782, elected Governor of the Commonwealth in 1797, and continued in that office until his death in 1799.

The doctrine laid down by the Chief Justice upon the trial of the indictment against Nathaniel Jennison had previously been discussed and approved in the civil suits arising out of the same transaction, the following statement of which is taken from the records and files of the Court of Common Pleas remaining in the custody of the clerk of the courts in Worcester, and from those of the Supreme Judicial Court which are preserved in the office of the clerk of this court in Boston :—

On May 1, 1781, Quork Walker brought an action of trespass against Nathaniel Jennison, returnable at June term of the Court of Common Pleas, and alleging that the defendant on April 30, 1781, at Barre, “with force and arms on him the said Quork, then in our peace being, did make an assault, and then and there with force as aforesaid seized the said Quork and threw him down and struck him several violent blows upon his back and arm with the handle of a whip, and did and then and there imprison, and other enormities to him the said Nathaniel Jennison then and there did, against the peace and the law.” To that action Jennison pleaded that, long before the date of the writ, “one Caldwell, being seised of the said Quork as of her own proper negro slave, was duly married to and became the lawful wife of the said Nathaniel, by means whereof the said Nathaniel, being the lawful husband of the said [Caldwell], became possessed of the said Quork as of his own proper negro slave, and so the said Nathaniel says that the said Quork, at the time of suing out the said writ and long before, and ever since, was the proper negro slave of him the said Nathaniel.” The plaintiff replied “that he the said Quork is a free man, and not the proper negro slave of the said Nathaniel,” and tendered an issue to the jury, which was joined by the defendant. The jury returned a verdict for the plaintiff for £50 damages, upon which judgment was rendered in the Court of Common Pleas. The defendant appealed to September term 1781 of the Supreme Judicial Court, but, failing to appear there, was defaulted, and the judgment below affirmed.

On May 28, 1781, Jennison brought an action of trespass on the case against John Caldwell and Seth Caldwell, alleging that, on April 2, 1781, at Barre, “a certain negro man named Quarko” was the plaintiff’s servant, and was kept, retained, and employed by him as his servant in and about his proper affairs and business; yet the defendants, well knowing the premises, but maliciously contriving to injure the plaintiff and deprive him of the benefit and service of his said servant, unlawfully solicited and seduced the said negro man from the business and service of the plaintiff, and caused and procured him to absent himself from his said master’s service; by means whereof said servant did absent himself from such business and service; and the defendants unlawfully kept, retained, and employed the said negro with them in their own proper business for six weeks, against the will and without the consent of the plaintiff, and did unlawfully take and rescue out of the plaintiff’s hands and possession his said servant, and did hinder, prevent, and molest him in claiming and reducing his said servant to his business and service, the defendants during all the time well knowing that the said negro was the plaintiff’s servant; whereby the affairs and business of the plaintiff was very much neglected, and he lost the benefit of the service of his said servant during all the time aforesaid. This writ was returnable at the same June term of the Court of Common Pleas, and was entered before the writ of Walker *v.* Jennison. The Caldwells severally pleaded not guilty, and tendered an issue to the jury, which Jennison joined, and upon a trial in the Court of Common Pleas he obtained a verdict and judgment

for £25. The defendants appealed to September term 1781 of the Supreme Judicial Court, and upon a trial there were found not guilty, and had judgment for costs against the plaintiff.

The Judges present at September term 1781 of the Supreme Judicial Court appear by the record to have been Justices Sargeant and Sewall, and James Sullivan, who resigned his office in 1782, and was afterwards Attorney-General and Governor of the Commonwealth.

Among the papers on file in the case of *Jennison v. Caldwell* is the bill of sale mentioned in Chief Justice Cushing's minutes, which is as follows:—

"Rutland District, May 4, 1754. Sold this day to Mr. James Caldwell, of said District in the County of Worcester and Province of the Massachusetts Bay: a certain negro man named Mingo, about twenty years of age, and also one negro wench named Dinah, about nineteen years of age, with her child Quaco, about nine months old: all sound and well: for the sum of one hundred and eight pounds lawful money, received to my full satisfaction, which negroes I the subscriber do warrant and defend against all claims whatsoever. As witness my hand.

"In presence of

ZEDEKIAH STONE.

"JNO. MORRAY,

"JOHN CALDWELL."

The abstract made by Professor Washburn, and heretofore printed by the Society, of the brief of the counsel for the defendants in the case of *Jennison v. Caldwell*, shows that they took the position that slavery was abolished by the Constitution of the Commonwealth. (34 Mass. Hist. Soc. Coll. 337, 341-344; Proceedings, 1855-58, pp. 193, 197-201.)

On June 18, 1782, *Jennison* presented a petition to the House of Representatives, "setting forth that he was deprived of ten negro servants by a judgment of the Supreme Judicial Court, on the following clause of the Constitution, 'that all men are born free and equal,' and praying that, if said judgment is approved of, he may be freed from his obligations to support said negroes." (3 Journal of the House of Representatives, 99.)

It can hardly be doubted that the case of *Jennison v. Caldwell* is the one to which Chief Justice Parsons, in 1808, referred in these words: "In the first action involving the right of the master, which came before the Supreme Judicial Court, after the establishment of the Constitution, the judges declared that, by virtue of the first article of the Declaration of Rights, slavery in this State was no more." (*Winchendon v. Hatfield*, 4 Massachusetts Reports, 123, 128.)

On February 8, 1783, the House of Representatives appointed a committee "to bring in a bill upon the following principles: "1st. Declaring that there never were legal slaves in this Government; 2d. Indemnifying all masters who have held slaves in fact; 3d. To make such provisions for the support of negroes and mulattoes as the committee may find most expedient." A bill was brought in, and passed through its several stages in the House, and read a first time in the Senate, and then appears no further in the records of the legislature. (3 Journal of the House of Representatives, 444, 529, 537. 3 Journal of the Senate, 413 & seq.)

It should not be overlooked that the Constitution of 1780 gave the right of suffrage to "every male person, being twenty-one years of age," and having a certain amount of property, and omitted the words "being free" and "excepting negroes, Indians, and mulattoes," which had been inserted in the Constitution rejected by the people in 1778; and that Chief Justice Cushing, Justices Sargeant, Sewall, Sullivan, and Sumner, as well as Levi Lincoln and Caleb Strong (the counsel of the *Caldwells* in the action brought against them by *Jennison*) and Attorney-General Paine (who tried the

indictment against Jennison) had all been members of the Convention which framed the Constitution of 1780, and all of them, except Justices Sargeant and Sumner and Mr. Lincoln, members of the committee which framed the Declaration of Rights. (Journal of the Convention of 1780, as printed in 1832, pp. 8, 10, 11, 12, 14, 15, 16, 28, 29, 30, 234, 257.)

All subsequent investigation of the subject of the abolition of slavery in Massachusetts has confirmed the accuracy of the statement drawn up by our founder, Dr. Jeremy Belknap, April 21, 1795, in answer to the queries of Judge Tucker, of Virginia, and printed in the fourth volume of our Collections. Dr. Belknap says:—

“The present Constitution of Massachusetts was established in 1780. The first article of the Declaration of Rights asserts that ‘all men are born free and equal.’ This was inserted not merely as a moral or political truth, but with a particular view to establish the liberation of the negroes on a general principle, and so it was understood by the people at large; but some doubted whether this was sufficient.”

“In 1781, at the court in Worcester County, an indictment was found against a white man for assaulting, beating, and imprisoning a black. He was tried at the Supreme Judicial Court in 1783. His defence was, that the black was his slave, and that the beating, &c., was the necessary restraint and correction of the master. This was answered by citing the aforesaid clause in the Declaration of Rights. The judges and jury were of opinion that he had no right to beat or imprison the negro. He was found guilty, and fined forty shillings. This decision was a mortal wound to slavery in Massachusetts.” (4 Mass. Hist. Soc. Coll. 203.)

And again, as a result of his previous statements: “The complete abolition of slavery may be fixed at the year 1783.” (Ibid., 206.)

The source of the information condensed in the second paragraph above quoted was evidently a letter, dated April 9, 1795, to Dr. Belknap from James Sullivan (himself one of the Judges that took part in the decision of the civil action of *Jennison v. Caldwell*, and who resigned before the trial of *Commonwealth v. Jennison*), as will appear by comparing it with the following extract, now first printed from the original letter found among Dr. Belknap's papers in the possession of the Society:—

“In the year 1781, an indictment was found in the County of Worcester against Nathaniel Jennison of Barre, yeoman, for assaulting, beating, and imprisoning Quock Walker. He was tried at the Supreme Judicial Court in April, 1783. The defence was, that the said Quock was a slave brought from Africa, and sold to some person who many years before had sold him to the defendant, and that the assaulting, beating, and imprisonment was done by the defendant as the restraint and necessary correction of the master on the servant. This was answered by the Declaration of Rights, declaring all men free, equal, &c. The judges and jury were of opinion that Jennison has not right to beat or imprison the negro. He was found guilty, and paid 40s. This decision put an end to the idea of slavery in this State.”

The reasonable conclusion seems to be, that the doctrine that slavery was abolished in this Commonwealth by the Declaration of Rights was declared in 1781 by the three Associate Justices, in the absence of the Chief Justice, upon the trial of the civil action brought by Jennison against the Caldwells; but, not being universally assented to throughout the State, the indictment against Jennison was brought to trial in 1783 before the whole court, and the same doctrine, being then distinctly affirmed by the Chief Justice, and the jury instructed accordingly, was thereby conclusively established as the law of the Commonwealth, further legislation on the subject was deemed unnecessary, and the bill pending before the legislature was therefore suffered to

drop. Dr. Belknap notes the fact that in the first census of the United States, taken in 1790, no slaves are set down to Massachusetts. (4 Mass. Hist. Soc. Coll. 199, 204.) And the law of Massachusetts has ever since been recognized by all legal authorities, in this Commonwealth and elsewhere, to be as stated by Chief Justice Cushing in the charge printed in the text. (*Winchendon v. Hatfield*, 4 Massachusetts Reports, 123, 128. *Commonwealth v. Aves*, 18 Pickering's Reports, 193, 208-210, 217. *Parsons v. Trask*, 7 Gray's Reports, 473, 478. *Jackson v. Phillips*, 14 Allen's Reports, 539, 563. 2 Kent's Commentaries, 252. *Betty v. Horton*, 5 Leigh's Virginia Reports, 615, 623.)

Judge Gray's communication formed the subject of some discussion, in the course of which Professor Washburn asked if there was probably any truth in the tradition which exists in the family of Judge Lowell, that he was the author of the clause in the Massachusetts Declaration of Rights, that "all men are born free and equal." Judge Gray replied that he supposed the introduction of that clause was due to John Adams.

Mr. DEANE said that, at the request of the President, he had put one or two papers into his pocket before leaving home, in case the communications for the evening should fall short; but, as the time had been so well taken up he should have allowed his papers to slumber had it not been for Professor Washburn's question. He now proposed to trespass for a few moments upon the time of the meeting, while he read a brief paper written some eight or ten years ago, suggested by the reappearance in the newspapers of the tradition to which Professor Washburn had referred, and now taken for the first time from the pigeon-hole in which it had been deposited.

Judge Lowell and the Massachusetts Declaration of Rights.

There has been for some years a tradition in the family of Judge John Lowell (who was born in 1743 and died in 1802) that he, as a member of the Convention which framed the Constitution of Massachusetts in 1779-80, introduced the first article, or the first clause in the first article, of the Declaration of Rights; and that its insertion was proposed by him for the express purpose of abolishing slavery in this State. The statement has found its way into some of our biographical dictionaries; but it appears, perhaps in its most authentic form, in a letter from the Rev. Charles Lowell, D.D., a son of Judge Lowell, written in 1856.

"My father," he writes, "introduced into the Bill of Rights the clause by which slavery was abolished in Massachusetts. You will find, by referring to the Proceedings of the Convention for framing the Constitution of our State, and to Eliot's New England Biographical Dictionary, that he was a member of the Convention and of the Committee for drafting the plan, &c., and that he suggested and urged on the Committee the introduction of the clause, taken from the Declaration of Independence a little varied, which

virtually put an end to slavery here, as our courts decided, as the one from which it was taken ought to have put an end to slavery in the United States. This he repeatedly and fully stated to his family and friends. . . . In regard to the clause in the Bill of Rights, my father advocated its adoption in the Convention, and when it was adopted exclaimed: '*Now there is no longer slavery in Massachusetts; it is abolished, and I will render my services as a lawyer gratis to any slave suing for his freedom, if it is withheld from him,*' or words to that effect."*

It certainly would be consonant to my own feelings to award such an honor to so distinguished a citizen as was Judge Lowell; but I cannot forbear, in justice to history, to express my belief that this tradition has no foundation in fact, and I will give my reasons for this opinion.

The Convention for framing the Constitution of Massachusetts met at Cambridge, on the first day of September, 1779. On the 4th of that month, a committee of *thirty*, of which the Hon. James Bowdoin was chairman, was chosen "to prepare a frame of a Constitution and Declaration of Rights," to be submitted to the Convention. Four days afterward the Convention adjourned, to meet again on the 28th of the following month. During the recess the committee entered upon the important work assigned to them; and, when the Convention again met, submitted their report in a printed form, copies of which were distributed among the members.

The journal or record of this committee of thirty, if any was kept by them, is not known to be in existence; but we know, from other sources, that the committee delegated to a sub-committee of *three* the duty of preparing a draft of a Constitution. The three were Mr. Bowdoin, Samuel Adams, and John Adams. By this sub-committee the task was intrusted to John Adams alone, who performed it. To them the draft was submitted; and they accepted it, with only one trifling erasure. It was then reported to the Grand Committee, who made some alterations. The preparation of a Declaration of Rights was intrusted by the general committee to Mr. Adams alone, and it was reported by him. "The article respecting religion," the third article, he says, "was the only article I omitted to draw."†

* Letter to Charles E. Stevens, author of "Anthony Burns, A History," Boston, 1856, pp. 234, 235.

† I am indebted to the Hon. Charles Francis Adams for the following extract of an unpublished letter from John Adams to Judge W. D. Williamson, dated 25 Feb., 1812:—

"In 1779 the General Court recommended to all the towns to choose representatives to meet at Cambridge, with full powers to agree upon a Constitution or frame of government to be laid before the towns for their approbation or rejection.

"The Convention met in August [September 1], in the Congregational Church in Cambridge, and, after some weeks [days] of deliberation and discussion, appointed a large committee of thirty members to sit in Boston and prepare a plan. This committee, after some weeks of debate, appointed a sub-committee of three members to make a draft. The three were Mr. Bowdoin, Mr. S. Adams, and myself. When we met, Mr. Bowdoin and Mr. S. Adams insisted that I should prepare a plan in writing, which I did. When I laid it before them, after deliberating upon it, they agreed to it, excepting only to one line, of no consequence, which I struck out. We reported it to the committee of thirty, where it underwent a thorough investigation. They struck out two things, to

To what extent the draft of the Declaration and Frame of Government were modified by the Grand Committee, before they were submitted to the Convention, we have no means at the present day of determining. That suggestions, more or less important, were made by some of the distinguished men who were members of that committee, is certain; but it is equally certain that the Report to the Convention was substantially as it came from the hands of Mr. Adams. (See Works of John Adams, iv. 216; vi. 463, 465; ix. 507, 618, 623; Proceedings of Mass. Hist. Soc. for November, 1860, pp. 87-92.)

The first article in the Declaration of Rights, which, it is said, Mr. Lowell caused to be inserted, is as follows:—

“All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.”

Now it is very well known to the student of our history, that many of the fundamental principles of the Massachusetts Declaration of Rights, and much of its language, were taken from the Virginia Declaration, as drawn up by that sterling patriot, George Mason, and adopted by the Convention at Williamsburgh, on the 12th of June, 1776. Or, perhaps, it would be more accurate to say that the Massachusetts Declaration corresponds more nearly, in the provisions common to both, to the language of the Pennsylvania Declaration adopted a few months after that of Virginia, the latter being, however, the common source. No man was more familiar with these state papers than was Mr. Adams. He made them the subject of discussion with M. Marbois on

my sorrow. One was an unqualified negative to the governor. Another was the power to the governor to appoint all militia officers, from the highest general to the lowest ensign. The article relative to religion was not drawn by me, nor by the sub-committee. The Declaration of Rights was drawn by me, who was appointed alone by the Grand Committee to draw it up. The article respecting religion, as I said before, was the only article which I omitted to draw. I could not satisfy my own judgment with any article that I thought would be acceptable, and, further, [I thought] that some of the clergy or older and graver persons than myself would be more likely to hit the taste of the public.”

Mr. Adams continued to attend the meetings of the Convention till two days before he embarked for Europe, on the 13th of November, 1779. On the 4th of November, he writes thus from Braintree to B. Rush:—

“Your favors of Oct. 12th and 19th are before me. I should not have left the first unanswered seven days, if it had not been for my new trade of a Constitution monger. I enclose a pamphlet as my apology. It is only a report of a committee; and will be greatly altered, no doubt.”—*Works of John Adams*, ix. 507.

In a letter to Edmund Jennings, dated 7th June, 1780, immediately after the Constitution had been ratified by the people, he says:—

“I was chosen by my native town into the Convention two or three days after my arrival [from Europe]. I was, by the Convention, put upon the committee; by the committee, upon the sub-committee; so that I had the honor to be principal engineer. The committee made some alterations, as, I am informed, the Convention have made a few others, in the report; but the frame and substance is preserved.”—*Ibid.*, iv. 216.

In a letter to John Taylor written in 1814, Mr. Adams speaks of “this constitution, which existed in my handwriting,” &c.—*Ibid.*, vi. 465.

their voyage from Europe to this country in 1779, from which he arrived just in time to be chosen a delegate to the Convention for framing the Constitution of Massachusetts, and of course he had them before him while employed upon the important duty assigned to him. The curious reader may be interested to see how nearly the first article of the Massachusetts declaration, given above, corresponds to the first article from the Virginia Declaration, which follows:—

“That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.”

That of Pennsylvania is as follows:—

“That all men are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.”

With these facts before us, it seems altogether improbable that John Adams, while drawing so largely from the Virginia and Pennsylvania Declarations of Rights, and from the latter very much in the order in which the several articles lie in that state paper,* should have omitted the first and most important article, containing principles and declarations so accordant to his own feelings and convictions; and have left that article, or the first clause in that article, to be prefixed by the Committee of Thirty. For it is on this violent supposition alone that it becomes possible for us to believe that the article referred to, or the first clause in it, could have been introduced on motion of Mr. Lowell in the Grand Committee, of which he was a member. Besides, we have the statement of John Adams himself, already cited, that the article respecting religion was the only article which he omitted to draw. The reader will consult in vain the Proceedings or Journal of the Convention, published by the State in 1832, or Eliot's Biographical Dictionary, cited as authority by Dr. Lowell, for any evidence that John Lowell “suggested and urged on the committee the introduction of the clause” referred to. Of course, the Journal of the Convention would not record what passed in the committee; and it is equally silent as to any exhibitions of exultation on the passage of this article in the Convention.†

* The articles in the Massachusetts Declaration of Rights number thirty, while those in the original Pennsylvania Declaration numbered sixteen. Numbers 1, 2, 4, 5, 7, 8, 9, 10, 12, 14, 15, 16, 17, and 18 of the former, correspond to numbers 1-14 of the latter. The language is often different, some of the articles in each paper being more amplified than the corresponding articles in the other.

† As I have said above, the Convention reassembled to hear and act upon the report of their committee on the 28th October. On the 29th, in the afternoon, the Journal proceeds to say: . . . “The Declaration of Rights was then read; and, on a motion made and seconded, the same was voted to be taken up by propositions. The preamble and the 1st article, after sundry amendments, being accepted,” &c. Now, having the Report of the Committee before us, and the Constitution as adopted, we are able to see what amendments, if any, were made in the first article. The only amendment was the striking out the word

The assertions of natural right embodied in these several Declarations were familiar to the public mind of Massachusetts at that period. The Declaration of Independence of 1776, issuing from a committee of which Mr. Adams was a member, followed in a few weeks the Declaration of Virginia referred to above; while that of Pennsylvania soon succeeded. The same familiar principles are afterwards found embodied in the report of the committee of a Convention which met at Ipswich, in this State, in May, 1778, in which the defects of a Constitution recently rejected by the people of Massachusetts were ably exposed,—a report said to have been drawn up by Theophilus Parsons, a legal luminary just then rising into notice. "All men," he says, "are born equally free; the rights they possess at their births are equal, and of the same kind. Some of those rights are alienable, and may be parted with for an equivalent. Others are unalienable and inherent, and of that importance that no equivalent can be received in exchange," &c. (See *Essex Result*, pp. 12, 13.)

Judge Lowell's sympathies were undoubtedly in favor of the freedom of the colored race. In answer to Dr. Belknap's inquiries, in 1795, relating to slavery in Massachusetts, Judge Sullivan, under date of April 9th, writes: "The first causes brought by negroes against their masters were conducted by Judge Lowell, who can give you an account of that business." (*MS. letter.*) These well-known views and benevolent exertions of Judge Lowell had no doubt left their impression on the minds of his family.

Judge Sullivan does not say whether these causes were brought before or after the adoption of the Constitution. That Dr. Belknap did consult Judge Lowell on the occasion referred to is probable. No letter of his exists, among others now extant, written in answer to Dr. Belknap's inquiries; but Judge Lowell's name is placed in the margin of the *original manuscript* of Dr. Belknap's reply to Judge Tucker (as are other names for a similar purpose) as authority for a statement relating to trials for freedom before the judicial courts, prior to the Revolution,—a statement incorporated with others relating to the same subject into one paragraph, as printed on pages 202–203 of Vol. IV. *Mass. Hist. Coll.*

The form used by Mr. Jefferson, in the Declaration of Independence, is more simple, but equally expressive: "All men are created equal."

The doctrine taught in these several forms of expression was, as I have said, familiar to the fathers of the Revolutionary era; indeed, it

their in the phrase "protecting their property." I will add, though all this has no immediate connection with the purpose of this communication, that in the *text* of the printed Report of the Committee the first clause of the Declaration reads, "All men are born equally free and independent"; but in a table of Errata on the last page it is corrected to read, "All men are born free and equal." This correction should not be regarded as an amendment made by the Convention; yet in reprinting this report in 1832, the Committee of the Legislature disregarded the whole of the Errata, which contained other corrections, more particularly in the last clause of the preamble; and the reader of that volume would necessarily conclude that the changes suggested by the Errata formed part of the amendments by the Convention. See *Proceedings of this Society for November, 1860*, pp. 88–92.

can be traced to a much earlier period. Not to refer to Locke and Sidney, I may mention that Sir Robert Filmer, who doubted its soundness in his "*Patriarcha*," published in 1680, traces it to Bellarmine, who was born in Tuscany in 1542. On page 11 of that volume, Filmer quotes that writer, in maintaining the "natural liberty of the people," as saying that it is evident from scripture that God hath given or ordained *power*; "but God hath given it to no particular person, because *by nature all men are equal*; therefore he hath given power to the people or multitude."*

Whatever may have been the significance of the first clause of the article under consideration to the minds of Mr. Mason and Mr. Adams, it is interesting to notice how widely different has been its interpretation in the States represented by these eminently patriotic citizens. In 1783 it was held by the Supreme Judicial Court of Massachusetts that the clause in question abolished slavery within this State. The first section in the Virginia Declaration of Rights, which is a part of her Constitution, stands to day, I believe, substantially as it came from the hands of George Mason.†

Slavery was abolished in Massachusetts by force of public opinion manifesting itself through her judicial courts. It was provisionally abolished in Virginia and her sister slave-states more than three-quarters of a century later, only by force of the public opinion of the nation, expressed through the supreme magistrate as the commander-in-chief of the army, during the rebellion of the States in which it existed; and consummated by an amendment of the Constitution of the United States.

The President then said:—

I will only detain the Society further while I say to them, in a single word, that, the health of one of my family rendering a voyage to Europe important, I am to embark early in May, and shall be absent from home and from our meetings for six or seven months. I hope to be here again in season for our November meeting; but accidents of life and health may detain me still longer. Should I find myself prevented from returning beyond the limit of a reasonable indulgence, my resignation will always be within the reach of our Secretary. Meantime, if, during my absence, I can render any service to the Society, or to any of its members, in the way of historical inquiry, it will always afford me the greatest pleasure to do so.

* See also Professor Washburn's "*Origin and Sources of the Bill of Rights*" of Massachusetts, in *Proceedings* for June, 1865.

† "*The state of New Hampshire established their constitution in 1783; and in the first article of the Declaration of Rights it is asserted that 'all men are born equally free and independent.'* The construction there put on this clause is that all who have been *born* since the constitution are free, but that those who were in slavery before are not liberated by it. By reason of this construction (which, by the way, I do not intend to vindicate), the blacks in that state are in the late census distinguished into free and slaves, there being no Indians residing within those limits." (Dr. Belknap to Judge Tucker in 1795, in 1 *Mass. Hist. Coll.* IV. 204.)